


Below is an Order of the Court.



DAVID W. HERCHER
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

Steven S. Sobella
Brenda K. Sobella; and
Sobella Nursery, Inc.,

Debtors.

Bankruptcy Case Nos.:

17-34449-dwh12 (Lead Case)

17-34446-dwh12

Jointly Administered Under
Case No. 17-34449-dwh12

FINAL ORDER AUTHORIZING USE OF
CASH COLLATERAL

THIS MATTER came before the Court on December 18, 2017 on the motion of the above Debtors (collectively "Debtors"), for authority to use cash collateral ("Motion") (Dkt. No. 16), due and adequate notice under the circumstances having been given, and the Court having heard the representations and argument of counsel, and being otherwise fully advised

The Court finds that the entity, Northwest Farm Credit Services, PCA (the "Lien Creditor"), may claim a lien in the Cash Collateral based upon the following:

Lien Creditor	UCCs	Amount Owing	Collateral	County
Northwest Farm Credit Services, PCA	7466918-1 7466918-2 7466918-3	\$1,390,431.37	Nursery Stock (and products) (Farm Product Code 0907)	Clackamas (County Code 03)

NOW, THEREFORE, it is ORDERED as follows:

1. Debtors are authorized to use Cash Collateral of \$428,314.00 for the period from November 30, 2017 through and including April 27, 2018 (the "Budget Period") in accordance with the attached Budget (**Exhibit 1**). Debtor's authority to use Cash Collateral is limited to the uses of cash collateral as set forth in the Budget; together with a 15% cumulative variance.

2. As adequate protection, the Lien Creditor is granted a replacement lien upon all post-petition assets of the Debtors which are of the identical description to its prepetition collateral.

3. Debtors will timely perform and complete all actions necessary and appropriate to protect Lien Creditor's collateral against diminution in value.

4. Nothing in this Order shall be construed to (a) grant a security interest in the Debtors' or trustee's avoidance powers; (b) convert any prepetition obligations into post-petition obligations; (c) require payment of any obligations on confirmation of a plan of reorganization, except as otherwise provided under the Bankruptcy Code; (d) alter, improve, limit or impair the rights, if any, of parties claiming to have rights of reclamation against Debtors, or its assets or (e) enhance the secured position of any creditor as of the Petition Date. Further, nothing in this order shall preclude Lien Creditors from asserting claims for any further amounts that may be owed by the Debtors.

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5. Debtors are authorized to execute and deliver to the Lien Creditor such instruments considered by the Lien Creditor to be necessary or desirable to perfect the secured interests and liens given to the Lien Creditor, and the Lien Creditor is authorized to receive, file, and record the same.

6. Nothing contained in this Order shall constitute a determination as to the amount, validity, or priority of any pre-petition obligation, security interest, or lien and all rights of parties in interest to claim that any pre-petition lien or security interest in Debtors' property is unperfected, unenforceable, invalid, or voidable, are reserved. Additionally, nothing in this Order shall constitute an admission or acknowledgement by Debtors that any party has a valid or perfected lien in the cash of Debtors now existing or subsequently received, and the references herein to "Cash Collateral" are without prejudice to all rights, defenses, and claims of Debtors to contend that any party does not have a perfected lien or security interest in such collateral.

7. Debtors' authority to use Cash Collateral may be extended beyond the amount in Paragraph 1 or the Budget Period by mutual agreement of the Debtors and the Lien Creditor. In the event of such agreement, Debtors may submit a further order extending Debtors' authority to use Cash Collateral on the same terms and conditions as provided herein without an additional motion or hearing. Notice of the proposed extension, including the applicable Budget, shall be provided to creditors and parties in interest with 14 days for filing objections thereto. If no objections are received, the extension order will take effect upon its stated date of commencement.

8. In the event of a default under the terms of this Order, and unless the Debtors cure such default within ten (10) days after receiving written notice of the default, the Debtors' right to use Cash Collateral shall be terminated and the Debtors

shall be further prohibited from using Cash Collateral without obtaining a court order allowing such use.

9. Except as otherwise authorized by an order of this Court, the Debtors shall deposit all funds received since the Petition Date and during the pendency of this case in the Debtors' bank account or accounts and that all expenses of the Debtors during the pendency of this case shall be paid from such accounts. Debtors shall not prepay expenses except in the ordinary course of business or as authorized by a court order.

10. Debtors shall pay Lien Creditor the sum of \$9,500 per month as an adequate protection payment for use of cash collateral through the period ending January 5, 2018 and shall pay Lien Creditor the sum of \$11,393.63 per month as an adequate protection payment for use of cash collateral for the period beginning January 6, 2018 and ending April 27, 2018. Nothing in this Order shall constitute a determination on the application of such payments by Lien Creditor to its claim(s) against the Debtors, and this Order is without prejudice to any terms provided by the Debtors in their Chapter 12 Plan. Debtors to promptly provide to the Chapter 12 Trustee proof of payment of the adequate protection payments.

11. Northwest Farm Credit Services, FLCA's Loan No. 4077 (last 4 digits) shall be kept current.

12. Debtor Steven S. Sobella shall be limited to a salary of not more than \$5,500.00 per month.

13. This Order does not contain any of the "disfavored provisions" listed in LBF #541.7.

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I certify that I have complied with the requirements of LBR 9021-1(a)(2)(A).

PRESENTED BY:

By: /s/Robert J Vanden Bos

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Douglas R. Ricks, OSB #044026
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Of Attorneys for Debtors
Steven S. and Brenda K. Sobella

First Class Mail:

See Attached List.

By: /s/Nicholas J. Henderson

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Of Attorneys for Debtor
Sobella Nursery, Inc.

Electronic Mail:

The foregoing was served on all CM/ECF participants through the Court's Case Management/Electronic Case File system.

Sobella Farms										
Name:	Wk1	Wk2	Wk3	Wk4	Wk5	WK5 TOTAL	Wk6	Wk7	Wk8	Wk9
Week Date	12/08/17	12/15/17	12/22/17	12/29/17	01/05/18		01/12/18	01/19/18	01/26/18	02/02/18
Initial Cash Balance	33,000	304,554	321,389	304,531	304,531	33,000	288,248	306,378	270,619	260,344
Sales - SF Stock Shipped	0	16,742	3,127	0	5,422	25,291	0	0	0	0
Sales - SF Stock Pending	0	0	12,000	0	0	12,000	0	0	0	0
Sales - BIP Sales Pending	0	0	0	0	0	0	0	0	0	0
Sales - BIP Sales Shipped	5,040	12,663	10,707	0	0	28,410	0	0	0	0
Pre-Payment	0	0	0	0	0	0	25,000	0	0	0
Custom Work	0	0	0	0	0	0	0	0	0	0
						0				
Cash For Operations	38,040	333,959	347,222	304,531	309,953	98,700	313,248	306,378	270,619	260,344
Income from Other Sources										
FPF Balance	293,000	0	0	0	0	293,000	0	0	0	0
	0	0	0	0	0	0	0	0	0	0
Total Income from Other Sources	293,000	0	0	0	0	293,000	0	0	0	0
Total Cash Inflows	331,040	333,959	347,222	304,531	309,953	391,700	313,248	306,378	270,619	260,344
Farm Operating Expenses										
Labor BIWeekly +1 Monthly Salary	15,796	0	9,200	0	7,000	31,996	0	10,500	0	4,500
Labor BB Harvest	1,200	0	0	0	3,000	4,200	0	7,000	0	9,200
Employee, Withholding Fed.& State	6,000	0	3,300	0	3,900	13,200	0	7,800		6,600
Burlap Twine	0	0	0	0	0	0	3,000	0	3,500	0
Plastic Pots Harvest 2018	0	0	0	0	0	0	0	6,000	0	0
Har. Soil	0	0	0	0	870	870	1,100	0	1,100	1,100
Nursery Supplies+Stakes	950	0	0	0	1,500	2,450	0	0	750	0
Soil Mix Production	0	1,400	0	0	0	1,400	0	0	0	0
Chemicals	0	0	0	0	0	0	0	0	0	1,500
Fertilizer/Lime	0	0	0	0	0	0	0	0	0	0
BI-Plants Shipped	0	0	27,000	0	0	27,000	0	0	0	21,560
BI Plants Pending to Ship	0	0	0	0	0	0	0	0	0	0
BI-Expense	0	0	0	0	0	0	0	0	0	0
Liners	0	0	0	0	0	0	0	0	0	0
Lumber: Shipping	0	1,270	0	0	0	1,270	0	0	0	0
Irrigation Parts & Repair	0	0	0	0	0	0	0	0	0	0
Utilities: Water Kelso	0	0	0	0	0	0	0	0	0	0
Utilities: Electric (PGE)	201	0	0	0	310	511	0	0	0	0
Utilities: Telephone/Internet/Cell	100	0	285	0	100	485	0	285	0	100
Monthly Bills (WM/TT)	0	0	275	0	275	550	0	0	275	0
Gasoline	125	0	175	0	125	425	0	175	0	125
Diesel-Farm	0	0	0	0	500	500	0	0	0	850
Propane	0	0	0	0	500	500	0	0	750	0
Equipment Repairs & Parts	0	0	460	0	0	460	1,400	0	0	0
Auto/Truck Repair & Parts	0	0	888	0	0	888	0	500	0	0

51	Insurance - SAIF	1,195	0	0	0	0	0	0	1,195	0	0	0	0	0
52	Insurance - John Hancock	819	0	0	0	0	0	0	819	0	0	0	0	870
53	Insurance - Liberty Mutual-Phip	0	0	0	708	0	0	0	708	0	0	1,804	0	0
54	Taxes: Property Farm	0	0	0	0	0	0	0	0	0	0	0	0	0
55	Accounting	0	0	0	0	0	600	0	600	0	0	0	600	0
56	Employee:Qtr Withholding	0	0	0	0	0	0	0	0	0	0	0	2,800	0
57	Fed. Tax 2017	0	0	0	0	0	0	0	0	0	0	0	0	0
58	Oregon Tax 2017	0	0	0	0	0	0	0	0	0	0	0	0	0
59	Custom - ACS Office-Software	0	0	0	0	0	150	0	150	0	0	0	0	0
60	Ore.License/Dues	100	0	0	0	0	0	0	100	0	0	0	0	0
61	Farm X Expense	0	400	0	400	0	500	0	1,300	500	500	500	500	500
62	Total Farm Operating Expenses	26,486	3,070	42,691	42,691	0	19,330	0	91,577	6,870	35,759	10,275	46,905	46,905
63	Capital, Debt & Misc. Payments													
64		0	0	0	0	0	0	0	0	0	0	0	0	0
65	Northwest Farm Credit Services, FLCA	0	9,500	0	0	0	2,375	0	11,875	0	0	0	0	0
66	Kubota Loan Payment	0	0	0	0	0	0	0	0	0	0	0	0	0
67	Total Cap, Debt & Misc. Pmts	0	9,500	0	0	0	2,375	0	11,875	0	0	0	0	0
68														
69	Total Cash Outflows	26,486	12,570	42,691	42,691	0	21,705	0	103,452	6,870	35,759	10,275	46,905	46,905
70														
71	Cash Required by Month	26,486	12,570	42,691	42,691	0	21,705	0	103,452	6,870	35,759	10,275	46,905	46,905
72														
73	Ending Outstanding Balance	304,554	321,389	304,531	304,531	304,531	288,248	306,378	288,248	306,378	270,619	260,344	213,439	213,439

[illegible]

51		0	1,195	0	0	0	1,195	0	0	0	0	1,195	0	0	0	4,780	5,975
52		0	0	0	0	870	0	0	0	0	0	870	0	0	0	3,480	4,299
53		0	1,404	0	0	0	1,404	0	0	0	0	0	0	0	0	4,612	5,320
54	950	0	0	0	0	0	0	0	0	0	0	0	0	0	0	950	950
55		0	0	600	0	0	600	0	0	0	0	0	600	0	2,400	3,000	3,000
56		0	0	0	0	0	0	0	0	0	0	0	0	4,500	7,300	7,300	7,300
57		0	0	0	0	0	0	0	0	0	0	0	0	25,000	25,000	25,000	25,000
58		0	0	0	0	0	0	0	0	0	0	0	0	10,000	10,000	10,000	10,000
59		0	200	800	800	0	0	0	0	0	0	0	0	0	1,800	1,950	1,950
60		0	0	0	0	0	0	0	0	0	0	0	0	0	0	100	100
61	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500	8,000	9,300
62	4,760	34,874	5,500	28,950	4,655	36,374	2,700	20,425	4,325	29,075	4,200	61,090	336,737	428,314			
63																	
64																	
65		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
66		0	0	0	0	0	0	0	0	0	0	0	0	0	0	11,875	11,875
67		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
68		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
69		0	0	0	0	0	0	0	0	0	0	0	0	0	0	11,875	11,875
70																	
71	4,760	34,874	5,500	28,950	4,655	36,374	2,700	20,425	4,325	29,075	4,200	61,090	336,737	440,189			
72																	
73	4,760	34,874	5,500	28,950	4,655	36,374	2,700	20,425	4,325	29,075	4,200	61,090	336,737	440,189			
74																	
75																	
76	208,679	173,805	168,305	151,355	146,700	110,326	132,626	124,201	119,876	105,801	113,601	67,511	67,511	67,511			67,511

In re Steven S. and Brenda K. Sobella;
Ch 12 Bankruptcy Case No. 17-34449-dwh12 (Lead Case)
In re Sobella Nursery, Inc.;
Ch 12 Bankruptcy Case No. 17-34446-dwh12
Service List

Steven S. Sobella
Brenda K. Sobella
29830 SE Wheeler Rd.
Boring, OR 97009

Sobella Nursery, Inc.
Attn: Steve S. Sobella
PO Box 1138
Boring, OR 97009

Special Notice:

PRA Receivables Management
LLC, PO Box 41021,
Norfolk, VA 23541

Lien Creditor:

Northwest Farm Credit Services, PCA
Northwest Farm Credit Services, FLCA
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Salem, OR 97301

Electronic Mail:

The foregoing was served on all
CM/ECF participants through the
Court's Case Management/
Electronic Case File system.